

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PINHAS BARAK,

Plaintiffs,

v.

STATE OF WASHINGTON; the  
WASHINGTON STATE PATROL; and  
ZACHARY BLOOMFIELD,

Defendants.

No.

COMPLAINT FOR DAMAGES AND  
PERSONAL INJURY

**JURY TRIAL DEMANDED**

Plaintiff PINHAS BARAK, by and through his counsel of record, Derek M. Smith and  
James J. White, hereby claims as follows:

**I. PARTIES**

1.1 Plaintiff PINHAS BARAK is an individual residing in Sherman Oaks,  
California, which is located in the Central District of California.

The Law Offices of Smith & White PLLC



Derek M. Smith & James J. White  
717 Tacoma Ave. South, Suite C Tacoma, WA 98402  
T. 253-229-1591 or derek@smithandwhite.com  
T. 206-650-6270 or james@smithandwhite.com  
F. 206-400-1145 www.smithandwhite.com

1.2 Defendant STATE OF WASHINGTON is a State of the United States.

1.3 Defendant WASHINGTON STATE PATROL ("WSP") is a government agency organized under the laws of the State of Washington. It is located in Thurston County in the Western District of Washington.

1.4 Defendant ZACHARY BLOOMFIELD is a trooper employed by the Washington State Patrol and, upon information and belief, a resident of Pierce County, Washington, which is in the Western District of Washington.

## II. JURISDICTION & VENUE

2.1 This Court has original jurisdiction over claims brought under 42 U.S.C. § 1983, and 28 U.S.C. §§ 1331 and 1443, and has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

2.2 Venue is properly located in the Western District Court of Washington at Tacoma under 28 U.S.C. § 1391 (b). The incidents complained of in this complaint occurred in Pierce County, Washington and some or all of the defendants are residents of Thurston County, Washington.

2.3 Before filing this action, plaintiff timely filed a claim for damages with the State of Washington on October 9, 2019, pursuant to RCW 4.96.020. As required by RCW 4.96.020, more than 60 days has expired since the filing of this claim for damages.



**III. JURY DEMAND**

3.1 Plaintiff hereby demands a jury pursuant to the Seventh Amendment of the U.S. Constitution and Fed. R. Civ. P. 38.

**IV. STATEMENT OF FACTS**

4.1 Plaintiff hereby alleges and incorporates paragraphs 1.1 through 3.1 herein.

4.2 Plaintiff Barak is a resident of Sherman Oaks, California and prior to the events of August 17, 2018, he did not have a criminal history.

4.3 On Friday, August 17, 2018, On Friday, August 17, 2018 at approximately 1:55 p.m., Pinhas Barak was traveling northbound on Interstate 5 near milepost 133 in Washington State. Plaintiff Barak was operating a black and white 2018 model BMW motorcycle, licensed and registered with the State of California and properly displayed as such. Additionally, the motorcycle was equipped with aftermarket strobe lights, white in color, that federal Department of Transportation code for use on motor vehicles. Mr. Barak was wearing a white helmet, a brown leather jacket and lighter brown pants and boots. In four places on his motorcycle were four stickers. These stickers were approximately 2 inches by two inches and were a yellow and black shield with black and white checkering displaying the words "CIGAR BIKER". Underneath those words were written "Los Angeles, CA" in smaller font. In the middle of this shield was the profile portrait of XXX. One sticker was placed on each of the two rear view mirrors so that they were visible from the front of the motorcycle only. The third was placed on the back of the saddle area and the fourth was placed on the rear storage box of the motorcycle. The third and fourth stickers were visible



1 from the rear of the motorcycle only. Finally, two such stickers were placed on Plaintiff  
2 Barak's helmet, one on the top of the helmet that could be viewed directly from above, the  
3 other on the area of the helmet covering the lower jaw visible from the front of the helmet.

4 4.4 Defendant Zachary Bloomfield was at the time of this incident employed as a  
5 trooper and authorized by the Washington State Patrol to enforce the laws of the State of  
6 Washington along the highways of the state, and included the authority to arrest and detain  
7 suspects of criminal activity

8 4.5 Defendant Bloomfield observed Plaintiff Barak operating his motorcycle. When  
9 first noticing the motorcycle, Defendant Bloomfield believed it to belong to a law  
10 enforcement agency. Defendant Bloomfield observed the white lights and golden badge  
11 stickers located on both the motorcycle and the helmet worn by the rider. Defendant  
12 Bloomfield also observed the motorcycle was lane splitting between lanes 1 and 2 of  
13 northbound Interstate 5. No citation for improper lights was issued nor was Plaintiff Barak  
14 cited for improper lane usage. Defendant Bloomfield activated his emergency lights and  
15 stopped Plaintiff Barak's motorcycle.

16 4.6 Plaintiff Barak was notified by Defendant Bloomfield he was being stopped for  
17 lane splitting and impersonation of a police officer. Plaintiff Barak stated he was allowed to  
18 have flashing lights on his motorcycle because the department of transportation told him.  
19 Defendant Bloomfield then questioned Barak about his golden badge stickers. Plaintiff Barak  
20 responded that they were a joke. Defendant Bloomfield photographed the stickers, their  
21 placement, Plaintiff Barak and his motorcycle as part of the criminal investigation of this  
22  
23



1 case. Before Plaintiff Barak was allowed to leave Defendant Bloomfield ordered Plaintiff  
2 Barak to remove all of the "CIGAR BIKER" stickers from his motorcycle and his helmet.  
3 Plaintiff Barak believed he had to remove the stickers because he was ordered to by a  
4 Washington State Patrol trooper who was detaining him and subject to arrest. Plaintiff Barak  
5 believed that he had been ordered by the Officer to refrain from replacing the stickers on his  
6 motorcycle and helmet or risk being further detained and removed to jail.

7 4.7 Defendant Bloomfield issued a criminal citation to Plaintiff Barak for a violation  
8 of Revised Code of Washington 9A.60.045, Criminal Impersonation in the Second Degree,  
9 for creating the impression that Plaintiff Barak was creating the impression that he was a law  
10 enforcement officer, a gross misdemeanor punishable by 364 days in jail and/or a \$5000 fine.  
11 That matter is being prosecuted by the State of Washington via the Pierce County  
12 Prosecutor's Office in Pierce County District Court case 8ZC003450. He has had to fly back  
13 and forth from California, his home, to Washington to deal with this matter. He has incurred  
14 attorney costs to defend that matter.

15 4.8 Plaintiff Barak has not put on stickers on his motorcycle for fear of similar actions  
16 by police officers.

## 17 V. COLOR OF STATE LAW AND AGENCY

18 5.1 Plaintiff hereby alleges and incorporates paragraphs 1.1 through 4.8 above.

19 5.2 The actions and omissions of Defendants set out in all paragraphs above were  
20 done under color of the laws of the State of Washington and pursuant to and as a result of the  
21 policies, customs, and practices of the State of Washington and the Washington State Patrol.  
22  
23



1           5.3     At all relevant times, Defendant Bloomfield were acting within the scope of  
2 their employment with the State of Washington and the Washington State Patrol.

3       **VI.     FIRST CAUSE OF ACTION – UNLAWFUL DETENTION AND ARREST IN**  
4       **VIOLATION OF THE FIRST AMENDMENT AND 42 U.S.C § 1983**

5           6.1     Plaintiff hereby alleges and incorporates paragraphs 1.1 through 5.3 herein.

6           6.2     By virtue of the foregoing facts, Defendants unlawfully detained and arrested  
7 Plaintiff in violation of the First Amendment and 42 U.S.C. § 1983 and subjected him to  
8 prosecution and fear of criminal conviction.

9           6.3     As a proximate result of the defendants' use of unreasonable force, Plaintiff  
10 Barak's civil rights were violated and he has suffered damages in an amount to be determined  
11 at trial.

12       **VII.    SECOND CAUSE OF ACTION – LIABILITY OF WASHINGTON**  
13       **STATE PATROL AND THE STATE OF WASHINGTON BASED ON**  
14       **POLICIES, PRACTICES AND/OR CUSTOMS IN VIOLATION OF**  
15       **THE FIRST AMENDMENT AS WELL AS OF 42 U.S.C. § 1983**

16           7.1     Plaintiff hereby alleges and incorporates paragraph 1.1 through 6.3 herein.

17           7.2     During the period relevant herein, the Defendant State of Washington ratified  
18 the actions of Defendant Bloomfield complained of herein.

19           7.3     By the foregoing State policies, practices and customs, and omissions,  
20 defendant State has acted, and has failed to act in violation of the First Amendment of the  
21 U.S. Constitution and of 42 U.S.C. § 1983.



7.4 As a proximate result of the foregoing State policies, practices, and/or customs, Plaintiff's civil rights were violated, and he has suffered damages in an amount to be determined at trial.

### VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Barak, prays for judgment against the defendant as follows:

8.1 Compensatory damages, including general and special damages, as proven at the time of trial, with interest thereon;

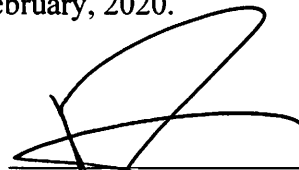
8.2 Punitive damages against defendants WSP and/or Bloomfield;

8.3 Reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988;

8.4 Permanent injunctive relief requiring defendants to cease and desist from further detention, interrogation, harassment and intimidation related to humorous and/or satiric stickers on vehicles; and

8.5 Such other and further relief as this Court deems just and equitable under the circumstances of this case.

DATED this 3 day of February, 2020.



Derek M. Smith, WSBA #26036  
THE LAW OFFICE OF SMITH & WHITE PLLC  
Counsel for Plaintiff  
717 Tacoma Ave. South, Suite C  
Tacoma, WA 98402  
T. 253-229-1591 or Derek@smithandwhite.com  
T. 253-650-6270 or james@smithandwhite.com  
F. 206-400-1145 www.smithandwhite.com

The Law Offices of Smith & White PLLC



Derek M. Smith & James J. White  
717 Tacoma Ave. South, Suite C Tacoma, WA 98402  
T. 253-229-1591 or derek@smithandwhite.com  
T. 206-650-6270 or james@smithandwhite.com  
F. 206-400-1145 www.smithandwhite.com